

EXHIBIT C

1
UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

2 In re:

3 **MOSDOS CHOFETZ CHAIM INC.,**

4 Post-Confirmation Debtor

5 CONGREGANTS OF MOSDOS CHOFETZ CHAIM INC.,

6 Plaintiffs,

7 - against -

8 MOSDOS CHOFETZ CHAIM INC. et al.,

9 Defendants.

Chapter 11
Main Case No. 12-23616-rdd

Adv. Pro. No. 21-07023-rdd

White Plains, New York

July 26, 2021

10:23 a.m. - 11:54 a.m.

11

- 12 • LETTER CONCERNING ADVANCEMENT OF HEARING DATE CONCERNING MOTION
13 PURSUANT TO FRBP 9024 AND FRBP 9023 FOR RELIEF FROM AMENDED ORDER
14 GRANTING MOTION FOR CONTEMPT OF COURT (RELATED DOCS 62, 60) FILED BY
15 M. DAVID GRAUBARD ON BEHALF OF LEAH TOBY ZAKS BRODY, NOCHUM BRODY,
16 FAIGE ZAKS HOCHMAN, YISROEL HOCHMAN, LEAH BERGMAN ZAKS, MAYER ZAKS,
17 SHIMON ZAKS, SIMA WEINTRAUB ZAKS (ECF #63)
- 18 • MOTION FOR RE-ARGUMENT FRCP 59 OF CONTEMPT ORDER DATED JUNE 15,
19 2021, AND MOTION TO RECONSIDER FRCP 60 OR FRBP 3008 CONTEMPT ORDER
20 DATED JUNE 15, 2021 (RELATED DOC 54) FILED BY M. DAVID GRAUBARD ON
BEHALF OF LEAH TOBY ZAKS BRODY, NOCHUM BRODY, FAIGE ZAKS HOCHMAN,
YISROEL HOCHMAN, LEAH BERGMAN ZAKS, MAYER ZAKS, SHIMON ZAKS, SIMA
WEINTRAUB ZAKS. (ATTACHMENTS: #1, EXHIBIT A (TRANSCRIPT OF HEARING
6/11/21); #2, EXHIBIT B (CONTEMPT ORDER DATED JUNE 15, 2021);
#3, EXHIBIT C (ORDER TO SHOW CAUSE DATED 6/3/21); #4, EXHIBIT E (AFFIRMATION OF
NOCHUM Z. BRODY); #5, EXHIBIT F (AFFIRMATION OF SHIMON ZAKS);
#6, EXHIBIT G (AFFIRMATION OF SHLOMO LICHTENSTEIN);
AND #7, EXHIBIT H (AFFIRMATION OF ARIEL DAHAN)) (ECF #60)
- 21 • MOTION FOR RE-ARGUMENT FRCP 59, NOTICE OF MOTION PURSUANT TO FRBP
22 9024 AND FRBP 9023 FOR RELIEF FROM AMENDED COURT ORDER GRANTING
23 MOTION FOR CONTEMPT OF COURT (RELATED DOC 60) FILED BY M. DAVID
24 GRAUBARD, ON BEHALF OF LEAH TOBY ZAKS BRODY, NOCHUM BRODY, FAIGE
25 ZAKS HOCHMAN, YISROEL HOCHMAN, LEAH BERGMAN ZAKS, MAYER ZAKS, SHIMON
ZAKS, SIMA WEINTRAUB ZAKS (ECF #62)

26 BEFORE THE HONORABLE ROBERT D. DRAIN
27 UNITED STATES BANKRUPTCY JUDGE

Mosdos Chofetz Chaim, Inc. - 7/26/21

6

1 particular motion.

2 THE COURT: Well, it's an entirely irrelevant element
3 of background, right? And it's particularly irrelevant since I
4 was crystal clear in my ruling at the hearing on the 11th that I
5 was not enforcing an eviction right.

6 MR. GRAUBARD: I understand that, Your Honor.

7 THE COURT: All right. So, I will disregard that
8 argument completely, which by the way was raised only in the
9 reply, which was filed on the eve of the hearing,
10 notwithstanding that the objector's reply was filed on the 19th.
11 But go ahead.

12 MR. GRAUBARD: Your Honor, Local Bankruptcy Rule
13 9014-2 says, the first hearing is not supposed to be an
14 evidentiary hearing. So, if the hearing on June 11 was an
15 evidentiary hearing, it's contrary to that local rule. The
16 other thing is that the court referred to prior affidavits on
17 another motion that weren't part of this record, which you can't
18 take judicial notice of. You can take judicial notice that an
19 affidavit was filed in a prior part of this case, but the court
20 cannot take judicial notice of the contents of those affidavits.
21 So, using those affidavits in connection with this motion was
22 improper.

23 On the alleged default, Mr. Brody was here. He spoke
24 very forcefully on the record, so that there would be no default
25 with respect to him, and in a residential capacity, he spoke for